



**MCI Telecommunications
Corporation**

1801 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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April 12, 1996

Mr. William F. Caton
Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

C & DOCKET # 96-22

Re: **In the Matter of Responsible Accounting Officer Letter 20,
Uniform Accounting for Postretirement Benefits Other Than
Pensions in Part 32; AAD 92-65; Amendments to Part 65,
Interstate Rate of Return Prescription Procedures and
Methodologies, Subpart G, Rate Base**

Dear Mr. Caton:

Enclosed herewith for filing are the original and four (4) copies of MCI Telecommunications Corporation's Comments regarding the above-captioned matter.

Please acknowledge receipt by affixing an appropriate notation on the copy of the MCI Comments furnished for such purpose and remit same to the bearer.

Sincerely yours,

Don Sussman
Regulatory Analyst

Enclosure
DHS

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of:

Responsible Accounting Officer
Letter 20, Uniform Accounting for
Postretirement Benefits Other
Than Pensions in Part 32

Amendments to Part 65, Interstate Rate
of Return Prescription Procedures and
Methodologies, Subpart G, Rate Base

DOCKET # 96-22

AAD 92-65

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OFFICE OF SECRETARY

MCI COMMENTS

I. INTRODUCTION

MCI Telecommunications Corporation ("MCI"), pursuant to the Notice of Proposed Rulemaking ("NPRM") released March 7, 1996, hereby submits its comments on the Commission's proposed amendments to Part 65, Subpart G of its rules. In the NPRM, the Commission proposes to modify Section 65.830(a), which enumerates specific items to be removed from the rate base, by broadening the current reference to the interstate portion of unfunded accrued pension costs in Section 65.830(a)(3) to include the interstate portion of all items in Account 4310. The Commission also proposes conforming amendments to Section 65.830(c), broadening the current reference to the interstate portion of unfunded accrued pension costs to include the interstate portion of all items in

Account 4310. While MCI does not believe that such a rulemaking is necessary,¹ MCI supports the Commission's proposed amendments to Part 65, Subpart G, of its rules.

II. BACKGROUND

On May 4, 1992, the Common Carrier Bureau ("Bureau") released Responsible Accounting Officer Letter 20 ("RAO 20"), primarily to provide guidance to carriers on how to account for OPEB costs in a manner consistent with Statement of Financial Accounting Standards No. 106 ("SFAS-106"), Employers' Accounting for Postretirement Benefits Other Than Pensions, which the Financial Accounting Standards Board ("FASB") adopted in December 1990.² RAO 20, among other things, instructed the local exchange carriers ("LECs") to exclude the interstate portion of accrued liability related to OPEBs recorded in Account 4310 from their interstate rate base and to include the interstate portion of any prepaid OPEB benefits recorded in Account 1410 in that rate base. The

¹ Under established principles of administrative law, the Commission has the option of interpreting its existing rate base rules for pensions to include OPEB. The Commission's rules do not have to be changed to incorporate the accounting changes proposed in the instant NPRM. See MCI Petition For Reconsideration, filed April 9, 1996.

² SFAS-106 established new financial accounting and reporting requirements for employers offering OPEBs.

basis for this instruction was the Bureau's belief that OPEB benefits were similar to pension benefits, and thus, should be treated similar pension benefits.³

On June 3, 1992, the Bell Atlantic Telephone Companies ("Bell Atlantic") and the Ameritech Operating Companies ("Ameritech") filed applications for review of RAO 20, claiming that an RAO letter cannot change the Commission's Part 65 rules defining a carrier's rate base. Bell Atlantic specifically argued that, because Part 65 rules do not list OPEB costs as items to be excluded from the rate base, the portion of RAO 20 that directs carriers to exclude from the rate base unfunded OPEB costs recorded in Account 4310 is an impermissible change in the rules. Bell Atlantic argued that the Bureau's issuance of RAO 20 was procedurally incorrect because a Notice of Proposed Rulemaking ("NPRM") should have been issued in lieu of an RAO Letter.

On March 7, 1996, the Commission issued its order rescinding the portion of RAO 20 that addressed the rate base treatment of OPEBs. The Commission stated that RAO 20 exceeded the Bureau's delegated authority because a rule change was required to exclude the interstate portion of unfunded accrued OPEB costs from the rate base under the provisions of Part 65.80(B) of the Commission's rules. On April 9, 1996, MCI filed a Petition for Reconsideration of the order released March 7, 1996, arguing that the Commission did have the option of interpreting its existing rule to apply to OPEBs, and that it failed to

³ Uniform Accounting for Postretirement Benefits Other Than Pensions in Part 32, 7 FCC Rcd 2872 (Com. Car. Bur. 1992) (RAO 20) at 2872-73.

recognize all of its procedural options prior to electing to proceed with a rulemaking.

III. All Items Recorded in Account 4310 Should be Removed From the Rate Base

In the NPRM, the Commission proposes to remove from the rate base all items recorded in Account 4310 because it believes that these amounts are zero-cost sources of funds.⁴ MCI agrees with the Commission that ratepayers should only pay a return on those amounts that the carrier has prudently invested in used and useful plant. Where carriers have accrued costs, but have not paid their liability, the recovered but unpaid costs are capital available to the carrier at no cost. The Commission is correct to remove from the rate base all accrued liabilities recorded in 4310.

At a minimum, the Commission should specifically accord the same rate base treatment of accrued OPEB liabilities presently accorded unfunded accrued pension costs. In RAO 20, the Bureau correctly instructed carriers to include in their rate bases the interstate portion of prepaid OPEBs recorded in 1410, and to remove from their rate bases the interstate portion of unfunded, accrued OPEBs recorded in Account 4310, because “postretirement benefits are similar to pension expenses...and as such should be given the same rate base

⁴ Zero-cost sources of funds are those funds provided to a carrier without cost to the investors.

treatment.”⁵ The Bureau’s rationale was correct because both OPEB and pension expenses are current liabilities for payments to current employees after they retire, and should be treated the same. Consequently, MCI agrees with the Bureau’s finding, and urges the Commission to adopt rules that require carriers to treat like costs (i.e., OPEBs and pensions) in a similar manner.

Moreover, since similar treatment of OPEB and pension expenses is consistent with GAAP, it would be consistent with Commission policy and precedent to remove from carriers’ rate bases the interstate portion of unfunded, accrued OPEBs recorded in Account 4310.⁶ The Commission has made it clear in earlier rulings that GAAP changes would be automatically adopted as long as they did not contradict Commission regulatory objectives. The amendments proposed in the instant NPRM do not contradict Commission regulatory objectives, and should be adopted.

The substantive decision about how to treat OPEBs for rate base purposes cannot be inconsistent with its treatment of pensions. Claims by some

⁵ RAO 20, 7 FCC Rcd 2872-3.

⁶ In CC Docket No. 84-469, the Commission adopted a Report and Order which specifically stated that “GAAP would be incorporated in the new Uniform System of Accounts in Part 32.” Revisions to the Uniform System of Accounts for Telephone Companies to Accommodate Generally Accepted Accounting Principles, 50 F.R. 48408, November 25, 1995 (“Report and Order”). The Report and Order envisioned adoption of GAAP changes absent an overriding regulatory consideration. Use of Certain Generally Accepted Accounting Principles in Part 32 of the Commission’s rules, RM-5835, Memorandum Opinion and Order, 2 FCC Rcd (1987).

LECs that rate base issues must be resolved with reference to exogenous cost issues are nonsense -- the Commission severed the ties between the rate base and prices in 1990 when it adopted price caps.⁷ Whether OPEBs qualifies as an exogenous cost is an issue that must be governed by reference to exogenous cost rules only. Treating the OPEBs issue consistent with pension treatment is the only defensible position.

IV. CONCLUSION

While MCI does not believe a rulechange is necessary, the Commission is correct to treat OPEBs in the same manner as pensions. MCI therefore supports, to the extent necessary, the Commission's proposed amendments to Part 65, Subpart G of its rules, as outlined in the NPRM, released March 7, 1996.

Respectfully submitted,
MCI TELECOMMUNICATIONS CORPORATION



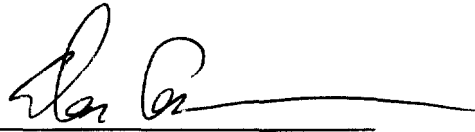
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April 12, 1996

⁷ In the Matter of Policy and Rules Concerning Rates for Dominant Carriers, Second Report and Order, 5 FCC Rcd 6786 (1990) at ¶1.

STATEMENT OF VERIFICATION

I have read the foregoing and, to the best of my knowledge, information, and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on April 12, 1996.

A handwritten signature in black ink, appearing to read 'Don Sussman', followed by a long horizontal line extending to the right.

Don Sussman
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(202) 887-2779

CERTIFICATE OF SERVICE

I, Stan Miller, do hereby certify that copies of the foregoing Comments were sent via first class mail, postage paid, to the following on this 12th day of April, 1996.

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Stan Miller